vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.359 OF 2004
IN
S.C. SUIT NO.3722 OF 1996

Makson Auto Hires ... Plaintiff

V/s.

International Airport Authority of India ... Defendant

Mr.S.Marathe i/b Deven Dwarkadas & Associates for Plaintiff
Ms.L. Munim i/b Rajesh Kothari for Defendant

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **DECEMBER 12, 2005**

P.C.:

. The Chamber Summons has been taken out for amending the plaint in the suit for injunction. The suit was filed under section 9 of the Arbitration and Conciliation Act, 1996 for interim reliefs. The arbitration proceedings came to an end by award dated 17.4.1998 which has been published. This award was challenged by the Plaintiff in this Court. The award was set aside and the disputes were referred for arbitration before another arbitrator. One of the terms of Reference was in respect of damages which the plaintiff claimed were due and payable. Since the plaintiff failed to file its statement of claim before

the Arbitrator within the stipulated time, the arbitration proceedings were terminated under section 25 of the Arbitration and Conciliation Act.

2. In my view, the Chamber Summons for amending the plaint is misconceived. In fact, the entire suit has become infructuous on account of the arbitration proceedings having come to an end. Apart from this, the Plaintiff cannot amend a suit for injunction filed under section 9 of the Arbitration & Conciliation Act and convert it to one for damages. Chamber Summons is dismissed.

2. Ms.Munim presses for costs in this matter. However, in the circumstances of the case, the no costs are required to be awarded.